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11-09-06  
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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue  
Implementation and Administration of California  
Renewables Portfolio Standard Program.

Rulemaking 06-05-027  
(Filed May 25, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING FURTHER  
INFORMATION FOR 2007 PROCUREMENT PLANS**

**1. Background**

On or about September 25, 2006, the three largest investor-owned utilities (IOUs) filed proposed 2007 Renewables Portfolio Standard (RPS) Procurement Plans (Plans). These Plans include model contracts for purchases of electricity from RPS generators. On September 26, 2006, the Governor signed Senate Bill (SB) 107. SB 107 modifies certain aspects of the RPS Program effective January 1, 2007, which, in turn, may require changing some elements of each Plan, including model contract terms. On October 10, 2006, three parties filed and served comments on the proposed Plans. On October 23, 2006, two of the IOUs filed reply comments. The Commission must now accept, modify, or reject each Plan. (Old § 399.14(b); new § 399.14(c).<sup>1</sup>)

**2. Discussion**

Assuming the Commission does not reject each proposed Plan, the Commission may wish to consider implementing certain aspects of SB 107 upon

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<sup>1</sup> All statutory references are to the Public Utilities Code unless noted otherwise.

approval or modification of these Plans. This may involve four items in particular.

## **2.1. Renewable Energy Credits**

The original RPS legislation (§ 399.11 et seq.) did not define renewable energy credits (RECs). In 2004, the Commission adopted a non-modifiable standard term and condition for the definition and ownership of RECs. (See Decision (D.) 04-06-014, Appendix A, pages A-2 to A-3.)

The RPS law effective January 1, 2007, now adopts a specific meaning for RECs:

- (1) “Renewable energy credit” means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.
- (2) “Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.
- (3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.” (SB 107, § 399.12(g).)

Moreover, the new law requires that:

A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity

generation specified under the contract.”  
(SB 107, § 399.14(a)(2)(D).)

Proposed 2007 Plans, including model contracts, may or may not be consistent with these new provisions. To help the Commission determine what, if anything, may need to be modified, IOUs are asked to identify each part of their proposed 2007 Plans, including model contracts, that address RECs in any way materially related to provisions in SB 107. IOUs should then verify that each part is consistent with the new law effective January 1, 2007, or propose modifications, as necessary. Parties may file comments and replies as provided below.

## **2.2. Agreement Information**

In 2004, the Commission adopted standard terms and conditions for RPS contracts. (D.04-06-014.) The law, as amended, now also provides that in 2007:

The standard terms and conditions shall include the requirement that, no later than six months after the commission’s approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.” (SB 107, § 399.14(a)(2)(D).)

Proposed 2007 Plans, including model contracts, may or may not be consistent with this new provision. To help the Commission determine what, if anything, may need to be modified, IOUs are asked to identify each part of their proposed 2007 Plans, including model contracts, that involve the required agreement information. IOUs should then verify that each part is consistent with the new law effective January 1, 2007, or propose modifications, as necessary. Parties may file comments and replies as provided below.

### **2.3. Access to Bid Information**

The original RPS legislation required that the Commission adopt a process for determining market prices, and make specific determinations of market prices after the closing date of a competitive solicitation. It also required that an electrical corporation not transmit or share the results of a competitive solicitation until the Commission had established market prices.

(§ 399.14(a)(2)(A).) Effective January 1, 2007, the restriction on an electrical corporation transmitting or sharing the results before the Commission has established market prices is lifted. (SB 107, § 399.14(a)(2).)

Proposed 2007 Plans, including model contracts, may or may not be consistent with the lifting of this restriction. To help the Commission determine what, if anything, may need to be modified, IOUs are asked to identify each part, if any, of their proposed 2007 Plans, including model contracts, that involve restricting access to certain information until after establishment of market prices. IOUs should then verify that each part is consistent with the new law effective January 1, 2007, or propose modifications, as necessary. Parties may file comments and replies as provided below.

### **2.4. Other**

SB 107 makes other changes to the original RPS legislation. Proposed 2007 Plans, including model contracts, may or may not be consistent with these other changes.

To help the Commission determine what, if anything, may need to be modified before adoption of 2007 Plans, IOUs are asked to identify each part of their proposed 2007 Plans, including model contracts, that involve any other area of change pursuant to SB 107 which the IOU believes may merit review, with two exceptions noted below. Regarding the areas that may merit review, IOUs

should then verify that each part is consistent with the new law effective January 1, 2007, or propose modifications, as necessary. Parties may file comments and replies as provided below.

The two exceptions are with regard to (1) flexible compliance and (2) contracts of less than 10 years' duration. Regarding the first, new flexible compliance rules are required pursuant to SB 107. (SB 107, § 399.14(a)(2)(C).) Modifications to current flexible compliance rules have already been the subject of comments and reply comments in this proceeding, Rulemaking (R.) 06-05-027. To the extent IOUs and parties wish to address this further they should do so in response to this ruling. The comments here, however, should be limited to changes, if any, that should be made to 2007 Plans, including model contracts, before they may be adopted by the Commission. To be most useful, comments must be specific, including references to the specific page of the Plan or model contract that should be modified. Comments need not address matters that are not included within a proposed Plan, including model contracts, and need not repeat already filed comments or reply comments.

With regard to the second, contracts of less than 10 years' duration are now subject to new conditions. One such condition is that they are permitted when the Commission has established minimum quantities of eligible resources to be procured either through contracts of less than 10 years' duration or from new facilities commencing operation on or after January 1, 2005. (SB 107, § 399.14(b).) This item is being addressed in R.06-02-012, and need not be addressed here.

**IT IS RULED** that:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company (the three largest

respondent IOUs) shall each file and serve a document within 12 days of the date of this ruling. In that document, each IOU shall identify each part of its proposed 2007 Procurement Plan (Plan), including model contract(s), that materially or substantively addresses the four items identified in the body of this ruling (i.e., renewable energy credits, agreement information, access to bid information, other). Each IOU shall verify that each part of its proposed 2007 Plan is consistent with these four items as addressed in Senate Bill (SB) 107, effective January 1, 2007, or shall propose modifications to bring its proposed 2007 Plan into compliance with SB 107.

2. Parties may file and serve comments within nine days of the date each IOU files the document described above, and reply comments within five days of the date comments are filed. The projected submission date for matters involving the 2007 Plans is changed from October 26, 2006 (see September 14, 2006 Ruling) to the date reply comments are filed.

3. Consistent with the directions in the Scoping Memo, all documents filed and served pursuant to this ruling shall be verified. (See August 21, 2006 Scoping Memo, Ordering Paragraph 5.)

Dated November 9, 2006, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson  
Administrative Law Judge

### **INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated November 9, 2006, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

### **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.